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I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Patents, Washington, DC 20231, on the date below:

July 2, 2002
Date

Gina N. Shishima

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Ratain et al.

Serial No.: 09/835.082

Filed: April 12, 2001

For: FLAVOPIRIDOL DRUG
COMBINATIONS AND METHODS
WITH REDUCED SIDE EFFECTS

Group Art Unit: 1617

Examiner: Jiang, S.

Atty. Dkt. No.: ARCD:374US/GNS

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RESPONSE TO RESTRICTION REQUIREMENT DATED JUNE 4, 2002

Commissioner for Patents
Washington, D.C. 20231

Commissioner:

This paper is submitted in response to the second Restriction Requirement, dated June 4, 2002, for which the date for response is July 4, 2002.

It is believed that no fee is due; however, should any fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason relating to this document, the Commissioner is authorized to deduct said fees from Fulbright & Jaworski L.L.P. Account No.: 50-1212/10103245/GNS.

In response to the restriction requirement which the Examiner imposed, Applicants elect, with traverse, to prosecute the ABC-encoding nucleic acid that encodes ABCG2. Applicants

note that claim 94, reciting "BCRP1," reads on this election because ABCG2 is also known as BCRP1. See specification at page 74, line 16.

Applicants traverse this restriction because the ABC transporters have common functional features.

Furthermore, Applicants note that claim 88, from which claim 93 depends, is a linking claim. The MPEP specifically states, "If a linking claim is allowed. . .[the examiner] must examine the claims to the nonelected inventions that are linked to the elected invention by such an allowed linking claim." MPEP §809.04. Thus, Applicants reserve the right to have the other nonelected claims examined should a linking claim be allowed in this case.

The Examiner is invited to contact the undersigned attorney at (512) 536-3081 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

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Date

Gina N. Shishima

Commissioner for Patents
Washington, D.C. 20231

Re: SN 09/835,082 entitled "FLAVOPIRIDOL DRUG COMBINATIONS AND METHODS WITH REDUCED SIDE EFFECTS" by Ratain *et al.*
Our ref: ARCD:374US/10103245; Client ref: UCHI:821

Commissioner:

COPY OF PAPERS
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Enclosed for filing in the above-referenced patent application is:

- (1) Response to Restriction Requirement Dated June 4, 2002;
- (2) A return postcard to acknowledge receipt of these materials. Please date stamp and mail this postcard.

Should any fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason relating to the enclosed materials, the Commissioner is authorized to deduct said fees from Fulbright & Jaworski L.L.P. Account No.: 50-1212/10103245/GNS.

Very truly yours,

Gina N. Shishima
Reg No. 45,104

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Enclosures

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